



South Carolina Department of Health  
and Environmental Control

**BUREAU OF  
BUSINESS MANAGEMENT**  
**DIVISION OF PROCUREMENT SERVICES**  
2600 Bull Street  
Columbia, SC 29201-1708  
Telephone: (803) 898-3501 Fax: (803) 898-3505  
<http://www.scdhec.net/procurement>

**REQUEST FOR PRICE QUOTATION****THIS IS NOT AN ORDER**

Quotation must be received by Date: July 2, 2009 Time: 2:30 pm ET	Mail or fax quotation to above address to ATTN.: Elsie Montgomery	Solicitation number: RFQ-35842-7/2/09/09-ESM	Date issued: 6/17/09
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Description: telephone answering services for the DHEC Division of Acute Disease  
Epidemiology

**NOTE: SEE ATTACHED SHEETS FOR SPECIFICATIONS, BIDDING SCHEDULE, PROVISIONS AND CLAUSES**

**MUST BE SIGNED TO BE VALID**

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. I agree, if this quotation is accepted within 60 days from date of closing, to furnish any and all items/services at the prices quoted.

Drug-Free Workplace: Required by Section 44-107-10 (Drug Free Workplace Act) of the South Carolina Code of Laws, 1976, as amended. By submission of a bid, the bidder certifies that he/she will comply with all aspects of the Drug-Free Workplace Act and will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of this contract. This certification also applies to any individual or firm employed by the contractor.

Authorized Signature		Printed Name		Date Signed
Company			Social Security or Federal Tax Number	
Mailing Address			Area Code and Phone Number	
City	State	Zip Code	Toll Free Phone Number	
E-mail Address			Fax Number	

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**SOLICITATION NUMBER: RFQ-35842-7/2/09-ESM**

**PURPOSE and SCOPE OF WORK:** to provide telephone answering services for the DHEC Division of Acute Disease Epidemiology

**SPECIAL CONDITIONS**

1. **AWARD:** The contract will be awarded by total to the lowest responsible and responsive bidder.
2. **REQUEST FOR QUOTATION:** The quotation must be received in DHEC-Procurement Services Division by 7/2/09, by 2:30 pm ET.
3. **ANTICIPATED SHIP TO and INVOICING:** SCDHEC, 1751 Calhoun Street, Columbia, SC 29201
5. **CONTACT PERSON:** The contact person for this solicitation is:  
Elsie S. Montgomery, CPPB, Procurement Officer  
Bureau of Business Management  
(803) 898-3471
6. **TERM/OPTION TO EXTEND:** Anticipated Initial Contract Period: 01-AUG-09 through 31-JUL-10. This contract will automatically extend on the anniversary date unless either party elects otherwise as allowed in the contract. The extension may be less than but will not exceed four (4) additional one year periods. If the contractor elects not to extend on the anniversary date, the contractor must notify the Division of Procurement Services in writing at least 90 days prior to the anniversary date.
7. **PRICE ADJUSTMENT:** Any request for price increase must be submitted to DHEC Division of Procurement Services at least 90 days prior to the anniversary date of the contract. Price increases will only become effective if agreed to in writing by the Division of Procurement Services. The maximum increase will not exceed the unadjusted percent change from the previous year shown in the Consumer Price Index (CPI), All Urban Consumers (CPI-U), "Other Goods and Services" or the current market conditions as determined by the Procurement Officer.
8. **VOLUME:** The quantities indicated are good faith estimates. No minimum or maximum quantity can be guaranteed.
9. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)** (DHEC APR 2009): Prior to any work being done on any contract resulting from this solicitation, the Contractor will be required to sign a Business Associate Agreement to safeguard the privacy and security of Protected Health Information (PHI) and Electronic Protected Health Information (EPHI) pursuant to requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A copy of the Business Associate Agreement is included in the attachments of this solicitation. Upon submission of an offer, the offeror agrees to these terms.

**SPECIFICATIONS:**

1. The vendor must provide documentation that they are certified by the Association of Teleservices International (ATSI) 24/7 Call Center Certification program and the certification must be retained throughout entire contract period.
2. The service will maintain a backup power system to continue operating in an emergency.
3. The service will maintain redundant critical equipment to continue operating in the event of equipment failure.
4. DHEC will provide an 800 phone number which will be forwarded to the answering service

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at all times.

5. The DHEC Division of Acute Disease Epidemiology will utilize the answering service primarily on nights, weekends, and holidays, however calls may also be received during the business day. Coverage for 24 hours a day is required.
6. The contractor will provide a dedicated phone line for DHEC Acute Disease Epidemiology use only. The line will be answered: "DHEC Disease Reporting System Answering Service".
7. To assure rapid local response, the **County Health Department is the primary contact for urgent calls and the appropriate County Health Department Emergency Pager (selected from a list) should be paged as the first responder.**
8. If the County number does not answer within 30 minutes (2 attempts), then the State Consultants' on call pager (**803-690-3756**) should be called.
9. If the State Consultant does not respond within 15 minutes, a list of backup pager, cell, and home phone numbers for the group of State Consultants is provided. The operator will place calls from the list until a response is obtained.
10. If the caller does not know the County, or asks to speak to the State Health Department, then the State Consultants' on call pager (**803-690-3756**) should be called.
11. **County and State** staff on call will notify the Answering Service immediately if they are aware that the primary number is out of order. A temporary alternate number will be provided for the operator verbally and by e-mail or fax.
12. The Division of Acute Disease Epidemiology will phone permanent changes in the phone number list to the Answering Service.
  - a) DHEC will provide the appropriate phone numbers for each of the 46 counties, the State on call pager, and a list of phone numbers to be used in case the primary numbers are not working.
  - b) The Answering Service will contact the designated point of contact in the Division of Acute Disease Epidemiology in the event of failure of equipment, shortage of staff, or any other event that prevents the Answering Service from sufficiently handling disease reporting calls.
13. Documentation of messages will be FAXED to 803-898-0897, Attention Shana Dorsey, by 8:30 AM daily. Documentation will include source of call, length of call, nature of call, phone numbers called, names of individuals receiving or replying to the calls, times all calls placed and returned.
  - a) Voice recorded messages will be available for review for quality assurance or sent electronically to DHEC daily in lieu of a faxed record.
14. The answering service will obtain relevant information to be defined in a script provided by DHEC

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15. The script will be provided to bidder upon request.

16. **SITE VISIT:** DHEC reserves the right to visit vendor's place of business.

17. **EMERGENCY:** In an emergency the number of calls would most likely increase drastically over the estimated monthly average of 150 minutes.

18. Telephone operators must answer telephones promptly and professionally. No more than four (4) rings should be allowed per call. Telephone calls must not be held for a long period of time.

**BIDDING SCHEDULE:**

**Item 1.** 150 minutes Base fee monthly telephone answering services. \$ \_\_\_\_\_

**Item 2** Overage Fee/minute For calling minutes over 150/month \$ \_\_\_\_\_

**TOTAL BID PRICE:** \_\_\_\_\_

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***PROCUREMENT PREFERENCES FOR SOUTH CAROLINA VENDORS AND PRODUCTS***

**South Carolina Resident Vendor Preference**

This following information explains the actions to be taken when applying for the South Carolina resident vendor preference.

**Resident vendor as defined by Section 11-35-1524 of the SC Consolidated Procurement Code:** A vendor is considered to be a resident of this State if the vendor is:

- (a) an individual, partnership, association, or corporation that is authorized to transact business within the State,
- (b) maintains an office in the State,
- (c) maintains an inventory for expendable items which are representative of the general type of commodities on which the bid is submitted and located in South Carolina at the time of the bid having a total value of ten thousand dollars or more based on the bid price, but not to exceed the amount of the contract, or is a manufacturer which is headquartered and has at least a ten million dollar payroll in South Carolina and the product is made or processed from raw materials into a finished end product by such manufacturer or an affiliate (as defined in Section 1563 of the Internal Revenue Code) of such manufacturer, and
- (d) has paid all assessed taxes.

TO MAKE CLAIM FOR THIS PREFERENCE IN THE AWARD OF THIS BID, THE PERSON SIGNING THE BID MUST PLACE THEIR INITIALS HERE: \_\_\_\_\_.

\*ADDRESS & PHONE NUMBER OF S.C. OFFICE. (MUST BE COMPLETED IF MAKING CLAIM)

\_\_\_\_\_  
PHONE# \_\_\_\_\_

**SOUTH CAROLINA/UNITED STATES PRODUCT PREFERENCE**

(Product preference does not apply to services.)

By signing bid and checking the appropriate space(s) provided and **identified on the bid pricing schedule**, vendor certifies that the end-product(s) as shown in this bid are either made, manufactured or grown in South Carolina or the United States.

**EXCEPTIONS TO PREFERENCES**

**Exceptions.** This section shall not apply (1) to any procurements conducted under Article 9 of the Code, (2) to any prime contractor or subcontractor providing materials or services relating to permanent improvements to real estate, (3) to any solicitation, bid, offer, or procurement when the price of a single unit of the end-product is more than \$30,000 whether or not more than one unit is bid or offered, (4) to any solicitation, bid, offer or procurement where the contract award is less than \$10,000, or (5) to any solicitation conducted under Section 11-35-1530 of the Code.

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**PLEASE READ THE FOLLOWING CAREFULLY PRIOR TO COMPLETING RFQ**

**INSTRUCTIONS TO BIDDERS**

**DISCUSSIONS AND NEGOTIATIONS:** By submission of a quotation, bidder agrees that during the period following issuance of this solicitation and prior to notification of intent or award of a contract, the bidder shall not discuss this procurement with any party except members of the DHEC Procurement Division or other parties designated in this solicitation. Bidder shall not discuss or attempt to negotiate with the using area or program any aspects of the procurement without prior approval of the DHEC Procurement Division Buyer responsible for the procurement. Infractions may result in rejection of the violator's quotation.

- 1) By submission of a bid, you are certifying that your company has not been debarred or suspended under OMB circular A-133 Compliance Supplement or otherwise from doing business in the State of South Carolina.
- 2) Unless otherwise required herein, only one signed copy of the Request for Quotation is required.
- 3) Quotations "faxed" directly to the DHEC Procurement Office are acceptable unless otherwise stated in this package.
- 4) Quotations, amendments thereto or withdrawal request must be received by the time advertised for bid closing. It is the bidder's sole responsibility to insure that these documents are received by the person (or office) at the time indicated in this solicitation document. State Regulation 19-445.2085 shall govern any withdrawal request received after the time of the bid closing.
- 5) When specifications or descriptive papers are submitted with the RFQ submission, enter bidder's name thereon.
- 6) Submit your signed RFQ on this form.
- 7) Bidders must clearly mark as "CONFIDENTIAL" each part of their quotation which they consider to be proprietary information that could be **exempt from disclosure** under Section 30-4-40, Code of Laws of South Carolina 1976 (1986 Cum. Supp.; Freedom of Information Act). If any part is designated as confidential, there must be attached to that part an explanation of how this information fits within one or more categories listed in Section 30-4-40. DHEC reserves the right to determine whether this information should be exempt from disclosure and no legal action may be brought against the State, DHEC or its agents for its determination in this regard.
- 8) By submission of a quotation, you are guaranteeing that all goods and services meet the requirements of this solicitation during the contract period.
- 9) **Tie quotations** will be resolved as outlined in section 11-35-1520(9) of the South Carolina Consolidated Procurement Code.
- 10) **Taxes:** Prices are to be exclusive of all sales, use and like taxes.
- 11) **Correction of errors on this RFQ form:** All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the quotation. Erasures or use of typewriter correction fluid may be cause for rejection. No quotation shall be altered or amended after the time specified for the bid closing.
- 12) **Ambiguous quotations** that are uncertain as to terms, delivery, quantity or compliance with this solicitation may be rejected or otherwise disregarded.
- 13) **Failure to respond** to three consecutive RFQs may result in removal of bidder's name from the mailing list.

**GENERAL PROVISIONS**

- 14) **Unit prices** will govern over extended prices unless otherwise stated in this solicitation.
- 15) **Prohibition of Gratuities:** Amended section 8-13-420 of the 1976 Code of Laws of South Carolina States: "Whoever gives or offers to any public official or public employee any compensation, including a promise of future employment, to influence his action, vote, opinion or judgment as a public official or public employee or such public official solicits or accepts such compensation to influence his action, vote, opinion or judgement shall be subject to the punishment as provided by Section 16-9-210 and Section 16-9-220. The provisions of this section shall not apply to political contributions unless such contributions are conditioned upon the performance of specific actions of the person accepting such contribution nor shall they prohibit a parent, grand-parent or relative from making a gift to a child, grandchild, or other close relative for love and affection except as hereafter provided".
- 16) **Bidder's Qualification:** Bidders must, upon request of DHEC, furnish satisfactory evidence of their ability to furnish products or services in accordance with the terms and conditions of these specifications. DHEC reserves the right to make the final determination as to the bidder's ability to provide the products or services requested herein.
- 17) **Bidder's Responsibility:** Each bidder shall fully acquaint himself with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this solicitation. It is expected that this will sometimes require on-site observation. The failure or omission of a bidder to acquaint himself with existing conditions shall in no way relieve him of any obligation with respect to this quotation or to the subsequent contract.
- 18) **Amendments:** All amendments to and interpretations of this solicitation shall be in writing from the DHEC Procurement Office. Neither DHEC nor the Procurement Officer shall be legally bound by any amendment or interpretation that is not in writing.
- 19) **Award Criteria:** Awards shall be as indicated herein to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in this solicitation. Award may take longer than fourteen days. A copy of the award notice should be posted on the Procurement Bulletin Board located at 2600 Bull Street in the Aycock Building directly across from the Personnel Division and next to the Bureau of Business Management's Procurement Services Division.

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- 20) **Rejection:** (In accordance with Regulation: 19-445-2070) DHEC reserves the right to reject any bid: (1) which fails to conform to the essential requirements of the invitation for bid; (2) alternate bids which do not conform to the specifications contained or referenced in the invitation for bid; (3) which fails to conform to the delivery schedule; (4) when the bidder attempts to impose conditions which would modify requirements of the invitation for bid or limit his liability to the State; (5) if the procurement officer determines in writing that it is unreasonable as to price; (6) when a bid guarantee is required and a bidder fails to furnish; (7) which is unsigned.
- 21) **Competition:** This solicitation is intended to promote competition. If the language, specifications, terms and conditions, or any combination thereof restricts or limits the requirements in this solicitation to a single source, it shall be the responsibility of the interested bidders to notify the DHEC Procurement Office in writing so as to be received five days prior to the closing date. Notification may be "faxed" to the DHEC Procurement Office, (803) 898-3505. The solicitation may or may not be changed but a review of such notification will be made prior to award.
- 22) **Order of Precedence:** In the event of inconsistency between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following order; (1) the bidding schedule, (2) general provisions and general conditions, (3) instruction to bidders, (4) special provisions or special conditions of the contract whether incorporated by reference or otherwise, and (5) the specifications.

**GENERAL CONDITIONS**

- 23) **Contract Administration:** Questions or problems arising after award of this solicitation/contract shall be directed to the DHEC Procurement Office, 2600 Bull Street, Columbia, SC, 29201-1708. Reference the solicitation and contract number.
- 24) **Default:** In case of default by the contractor, DHEC reserves the right to purchase any or all items in default in the open market, charging the contractor with any additional costs. The defaulting contractor shall not be considered a responsible bidder until the assessed charge has been satisfied.
- 25) **Force Majeure:** The contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. But in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by default of a subcontractor, and if such default arises out of causes beyond the control of both the contractor and subcontractor, and without the fault or negligence of either of them, the contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the contractor to meet required delivery schedule(s).
- 26) **Save Harmless:** (This General Condition does not apply to solicitations for service requirements). The successful bidder shall indemnify and save harmless the State of South Carolina and DHEC and all its officers, agents and employees from all suits or claims of any character brought by reason of infringing on any patent, trade mark or copyright. The bidder shall have no liability to DHEC if such patent, trade mark or copyright infringement or claim is based upon the bidder's use of material furnished to the bidder by the State.
- 27) **Publicity Releases:** By submission of a quotation, the contractor agrees not to refer to award of this contract in commercial advertising in such a manner as to state or imply that the products or services provided are endorsed or preferred by DHEC or user.
- 28) **Tax Credit Availability:** Bidders interested in income tax credit availability by subcontracting with Certified Minority Firms should contact the Office of Minority Business Assistance, 1205 Pendleton Street, Columbia, SC, 29201. (803-734-0564)
- 29) **Affirmative Action:** The successful bidder will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees, without regard or discrimination by reason of race, color, religion, sex, national origin or physical handicap.
- 30) **Assignment:** Unless otherwise indicated in this solicitation, no contract or its provisions may be assigned, sublet, subcontracted, or transferred without the prior written consent of the DHEC Procurement Office.
- 31) **Termination:** Any contract resulting from this solicitation may be terminated by DHEC by providing a thirty day advance notice in writing to the successful contractor.
- 32) **Non-Appropriations:** Any contract entered into by DHEC resulting from this solicitation shall be subject to cancellation without damages or further obligation when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year.
- 33) **Convenience:** In the event that this contract is terminated or canceled upon request and for the convenience of DHEC without the required thirty days advance written notification, then DHEC shall negotiate reasonable applicable termination costs.
- 34) **Cause:** Any contract resulting from this solicitation may be terminated without advance notice by DHEC for cause, default or negligence on the part of the successful contractor.
- 35) **S.C. Law Clause:** Upon award of a contract under this quotation, the person/partnership, association or corporation to whom the award is made must comply with the laws of South Carolina which require such person or entity to be authorized and/or licensed to do business with this State. Notwithstanding the fact that applicable statutes may exempt or exclude the successful bidder from requirements that it be authorized and/or licensed to do business in this State. By submission of a quotation, the bidder agrees to subject himself to the jurisdiction and process of the courts of the State of South Carolina as to all matters and disputes arising or to arise under the contract and the performance thereof, including any questions as to the liability for taxes, licenses or fees levied by the State of South Carolina.
- 36) **Quality of Product:** (This general condition does not apply to solicitations for printing or service requirements). Unless

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otherwise indicated in this solicitation, it is understood and agreed that any item offered or shipped as a result of this solicitation shall be new and in first class condition, that all containers shall be new and suitable for storage or shipment, and that prices include standard commercial packaging. For information technology procurements as defined in Section 11-35-310 of the SC Procurement Code, if items that are other than new (i.e., remanufactured or refurbished) are desired to be bid, the bidder must obtain written permission to bid such items at least five days in advance of the RFQ closing date. Written permission must be obtained from the DHEC Procurement Office.

- 37) **Compliance with Federal Requirements:** S.C. State or Federal requirements that are more restrictive shall be followed in bidding, awarding and performance of this contract.
- 38) **Drug-Free Workplace:** Required by Section 44-107-10 (Drug Free Work-Place Act) of the SC Code of Laws, 1976, as amended. By submission of a quotation, the bidder certifies that he will comply with all aspects of the Drug-Free Workplace Act and will not engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the performance of this contract. This certification also applies to any individual or firm employed by the contractor.
- 39) **Confidentiality Policy:** The successful contractor agrees to abide by DHEC's policy of confidentiality which states in part that all information as to personal facts and circumstances given or made available to employees and/or contractors of DHEC in administration of programs shall be held confidential and shall not be divulged without the express written consent of the individual(s) to which it pertains.
- 40) **Item Substitution:** No substitution of items will be allowed on any purchase made from the awarded contract without written permission from the DHEC Procurement Office.
- 41) **Outside Contractor Program:** If applicable to scope of contract, contracted employees working on DHEC properties are entitled to information about hazardous chemicals present at DHEC; and DHEC's personnel are entitled to information about hazardous chemicals brought to the facilities by contractors. In order to assure continued compliance with the Hazard Communication Standards while contractors are on DHEC property and to control potential compliance obligations under the Superfund Amendments and Re-authorization Act, it is DHEC's policy to:
- a. Obtain written assurance that the contractor's employees have been trained to understand the hazards of the chemicals at DHEC and how to use appropriate personal protective equipment. All personal protective equipment and training required for the contractor's employees will be provided by the contractor at the contractor's expense. (This includes SC State General Services employees).
  - b. Require the contractor to notify the DHEC Bureau of Business Management or the appropriate DHEC unit Director when introducing hazardous chemicals into DHEC work areas, which may harmfully expose DHEC employees. If the contractor is introducing such hazardous chemicals into any DHEC facility or onto DHEC property, the contractor shall provide the DHEC Division of Procurement Services or the DHEC unit Director copies of the Material Safety Data Sheets (MSDS) for those chemicals. The DHEC Division of Procurement Services or the DHEC unit Director should provide appropriate information to the DHEC employees before the contractor(s) enter any DHEC facility with chemicals.
  - c. DHEC reserves the right to refuse to allow any contractor to bring any chemical onto DHEC property. DHEC also reserves the right to refuse to allow any contractor to bring certain quantities of chemicals on DHEC property.
- 42) Any written assurances, MSDS's or correspondence required must be submitted prior to beginning any aspect of the contract.
- 43) **Travel:** As applicable, reimbursement to contractors for travel expenses will be made in accordance with regulations established for State employee travel and in accordance with guidelines established by DHEC.

**SPECIAL PROVISIONS**

- 44) **FOB Destination:** All deliveries shall be FOB Destination. It is agreed by the parties hereto that delivery by the contractor to the common carrier does not constitute delivery to the State. Any claim for loss or damage shall be between the contractor and the carrier. Quotations received otherwise may be subject to rejection.
- 45) **Shipping/Delivery Charges:** Unless otherwise indicated in the "Special Conditions", any applicable shipping, delivery, assembly or installation charges are to be indicated on the bidding schedule herein.
- 46) **Specifications:** The specifications listed herein are not to be considered restrictive to one source of supply. However, items offered must be equal in quality and performance. The bidder to include with his quotation supporting product data sufficient for DHEC to determine equality and acceptability. DHEC reserves the right to reject any offering in which the items offered are considered unsatisfactory in any manner. DHEC will determine if minor deviations from the listed features or performance are acceptable.
- 47) **Confidentiality:** The Contractor and all contracting employees shall not discuss, disclose, release, divulge or otherwise communicate, any confidential information as to personal facts and circumstances observed or overheard while performing work pursuant to this contract. The Contractor and all contracting employees, their agents, personal representatives and assigns, shall be fully liable and accountable for any resulting damage or injury to any person, institution or DHEC





## DHEC Confidentiality Agreement

I understand that the South Carolina Department of Health and Environmental Control (DHEC) has a legal and ethical responsibility to maintain confidentiality of information as to personal facts and circumstances of DHEC employees, clients, or other citizens given or made available to DHEC in administration of the agency's programs and services.

DHEC's Confidentiality Policy states that Information about personal facts and circumstances of DHEC employees, clients and other citizens will be kept confidential and will not be disclosed without the individual's written authorization, except as required by law or as required to perform agency responsibilities. Protected Health Information that identifies an individual generally cannot be released unless properly authorized by the client or his/her legal representative, or pursuant to a specific exception under the Health Insurance Portability and Accountability Act (45 CFR Parts 160 and 164). The Family Privacy Protection Act and other state and federal laws may place additional limitations on disclosure of personal information.

Information that is made available to the public under the Freedom of Information Act must be disclosed in accordance with State law. However, the Freedom of Information Act protects information of a personal nature such that public disclosure would constitute an unreasonable invasion of privacy. The types of information that generally must be kept confidential include, but are not limited to: protected personal information of job applicants, DHEC employees, or members of the public, such as names, social security numbers, addresses, telephone numbers, financial status and information, account or identification numbers issued by government agencies or private financial institutions, confidential business information, vital records information, social security numbers, and health information that identifies individuals.

I understand that during the course of my employment, volunteer services, or contract performance with DHEC, I may see or hear confidential information and/or protected health information.

By signing this agreement, I understand and agree that I will not disclose confidential information or protected health information unless the disclosure complies with DHEC policies and is required to perform my responsibilities. I will not access or view any information other than what is required to do my job. If I have any questions about whether I need access to certain information, or whether certain information should be disclosed, I will immediately ask my supervisor for clarification. I will immediately report any unauthorized disclosure of protected health information or other confidential information as required by DHEC Policy, or as required by terms in any contract or agreement with DHEC to which I am a party.

I will not discuss any confidential information or protected health information obtained in the course of my relationship with DHEC with any person or in any location outside of my area of responsibility in DHEC, except as otherwise required or permitted by law. I will not make any unauthorized copy or disclosure of this information, or remove or transfer this information to any unauthorized location.

I agree that my obligations under this Agreement regarding confidential and protected health information will continue after termination of my employment/volunteer assignment/contract affiliation with DHEC.

I understand that violation of this Agreement may result in termination of my volunteer, contractual and/or work relationship with DHEC and may be grounds for disciplinary action, fines, penalties, imprisonment or civil suit to be brought against me.

I have read the above Agreement and agree to comply with all its terms.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Work Location: \_\_\_\_\_  
DHEC 321 Rev 3/2007

# BUSINESS ASSOCIATE AGREEMENT

BETWEEN

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

AND

I. Purpose:

The South Carolina Department of Health and Environmental Control (hereafter referred to as "Covered Entity") and \_\_\_\_\_ (hereafter referred to as "Business Associate") desire to enter into this Business Associate Agreement (hereafter, "BA Agreement" or "the Agreement") for the purpose of protecting the privacy and security of clients' health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Standards for Privacy of Individually Identifiable Health Information, 45 CFR Part 160 and Part 164, Subparts A and E (hereafter referred to as "the Privacy Rule"), and the HIPAA Security Standards for the Protection of Electronic Protected Health Information, 45 CFR Part 160 and Part 164, Subparts A and C (hereafter referred to as "the Security Standards.")

II. Definitions (Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule or the Security Standards.)

- a. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- b. Protected Health Information. "Protected Health Information" (hereafter referred to as PHI) shall have the same definition contained in 45 CFR §160.103. For purposes of this Agreement, PHI is limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information" includes, without limitation, "Electronic Protected Health Information," as defined below.
- c. Electronic Protected Health Information. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 CFR § 164.103.
- d. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.
- e. Secretary. "Secretary" shall mean the Secretary of the U. S. Department of Health and Human Services or his designee.

III. Business Associate Agrees as follows:

- a. To Adhere to the Covered Entity's policies and procedures with regard to the use and disclosure of PHI created or received by the Business Associate from or on behalf of the Covered Entity, for so long as this BA Agreement is in effect.
- b. To Comply with the Confidentiality provision contained in Contract # \_\_\_\_\_ and any Confidentiality Agreement signed by the Business Associate pursuant to that Contract for so long as this BA Agreement remains in effect.
- c. Not to use or disclose PHI other than as permitted or required by this Agreement or as Required By Law.
- d. To use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement. The Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any ePHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the Security Standards.
- e. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement, pursuant to 45 CFR § 164.530(f)..

- f. To report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement of which Business Associate becomes aware.
- g. To ensure that any agent, including a subcontractor, to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information and that any agent or subcontractor to whom it provides ePHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity, agrees to implement reasonable and appropriate safeguards to protect such ePHI.
- h. To provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements of 45 CFR § 164.524 if the Business Associate has PHI in a designated record set.
- i. To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity if the business associate has PHI in a designated record set. Business Associate shall not amend PHI received from the Covered Entity or created and/or provided to the Business Associate on behalf of the Covered Entity unless the amendment is directed by or consented to by the Covered Entity. The Business Associate shall provide a copy of the amended PHI to the Covered Entity.
- j. To make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- k. To document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- l. To provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section III.k of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- m. If requested by the Covered Entity, to provide a copy of the Covered Entity's Notice of Privacy Practices to the client at the time of first contact, and maintain documentation of the client's receipt of the Notice.
- n. To contact the Covered Entity's Privacy Officer at (803) 898-3318 at any time clarification or guidance is needed regarding compliance with the terms of this Agreement.

IV. Covered Entity Agrees as follows:

- a. To provide the Business Associate with a copy of its policies and procedures implementing the Privacy Rule, including the Notice of Privacy Practices.
- b. To notify Business Associate of any limitation(s) in Covered Entity's Notice of Privacy Practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- c. To notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- d. To notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- e. Not to request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

V. Permitted Uses and Disclosures by Business Associate

- a. General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Contract # \_\_\_\_\_, or as otherwise provided by law, provided that such use or disclosure would not violate the Privacy Rule or the Security Standards if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity, and provided that such disclosures are documented pursuant to Sections III(k) and (l) of this Agreement.

b. Specific Use and Disclosure Provisions

1. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
2. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which the person is aware in which the confidentiality of the information has been breached.

Business Associate will notify the Covered Entity of any breach of confidentiality or security by a person to whom the Business Associate has disclosed PHI pursuant to this Section, and will mitigate and/or assist the person and the Covered Entity in mitigating any harmful effects resulting from the breach of information.

3. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).
4. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

VI. Term and Termination

- a. Term. The Term of this Agreement shall be effective as of \_\_\_\_\_, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and Contract # \_\_\_\_\_ if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
  2. Immediately terminate this Agreement and Contract # \_\_\_\_\_ if Business Associate has breached a material term of this Agreement and cure is not possible; or
  3. If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.
- c. Effect of Termination.
  1. Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI. If the return or destruction of PHI held by the Business Associate is not permissible pursuant to South Carolina law, the Business Associate will extend the protections of this Agreement to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.
  2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

VII. Indemnification (the following does not apply to other South Carolina agencies or political subdivisions)

Business Associate agrees to indemnify and hold harmless Covered Entity from any claims, demand, suit, loss, liability, or administrative penalties that the Covered Entity may sustain as a result of the Business Associate's breach of this Agreement, including any breach of confidentiality by a person to whom the Business Associate has disclosed information pursuant to this Agreement; provided, however, that the Business Associate shall not hold the Covered Entity harmless from any claims, demands or causes of action arising or resulting directly or indirectly from negligence of the Covered Entity, its officers, agents, representatives or employees, or any person or entity not subject to the Business Associate's supervision or control. This indemnification shall include reasonable expenses including attorney's fees incurred by defending such claims and damages incurred by reason of the Business Associate's failure to comply with applicable laws and regulations or for damages caused by the Business Associate, its employees and/or agents, including subcontractors. As a condition precedent to asserting a right of indemnity, the Covered Entity shall provide timely written notice to the Business Associate of the assertion of the claim to which the right of indemnification is claimed to exist.

VIII. Miscellaneous

- a. Regulatory References. A reference in this Agreement to a section in the Privacy Rule or the Security Standards means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Standards and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- c. Survival. The respective rights and obligations of Business Associate under Section VI.c of this Agreement shall survive the termination of this Agreement.
- d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule and the Security Standards.

AS TO DHEC

BY: \_\_\_\_\_  
(Region Health Director, EQC Director,  
Region Administrator, Health Services or  
EQC Central Office Program Director)

DATE: \_\_\_\_\_

AS TO THE CONTRACTING PARTY

BY: \_\_\_\_\_  
(NAME)  
Its: \_\_\_\_\_  
(TITLE)

DATE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_  
\_\_\_\_\_